

Exhibit "D" "IN Futherance of" prong.

Motion to Suppress pg. 25, <sup>26, 47</sup>35. Sentencing pg. 20

S.H

1 Q. And at -- had you asked him any questions at that point?

2 A. I asked if he had any weapons on him.

3 Q. Did you ask him anything else about his drug activity --

4 A. No, ma'am.

5 Q. -- or what he was doing, anything of that nature?

6 A. No, ma'am.

7 Q. And you said that he made a statement at that point; is that  
8 correct?

9 A. Yes, ma'am.

10 Q. And what was that statement?

11 A. That she had nothing to do with this or his wife had nothing  
12 to do with this.

13 Q. Had you placed him in handcuffs at that time?

14 A. After that statement was made, I believe he was placed in  
15 handcuffs and advised that it was for officer safety based on  
16 him trying to, at one point, get to the rear of the vehicle;  
17 at one point, what appeared to be is him about to run.

18 MS. REDMOND: Judge, I believe that's all the  
19 government has for this witness.

20 THE COURT: Ms. Cooper?

21 CROSS-EXAMINATION

22 BY MS. COOPER:

23 Q. Mr. Whiten, you had indicated that there had been other  
24 times surveillance had taken place by you or your agency on  
25 Mr. Jefferson; is that correct?

S.H

1 A. Yes, ma'am.

2 Q. On how many occasions, to your knowledge?

X3 A. Within the last couple of weeks leading up to this, at least  
X4 six or seven times. Within the last three months, at least 30  
5 times.

6 Q. Could you please tell the Court what different circumstance  
7 occurred on December 6th, 2002, that caused you to approach  
8 Mr. Jefferson and the fact that you did not on the other  
9 occasions?

10 A. On the other occasions, at that particular business there  
11 was never no one in the business. It was never open. There w  
12 never cars in front or persons inside the business. On that  
13 particular occasion, what led to us making contact with  
14 Mr. Jefferson is that -- his pulling up in the vehicle, getti  
15 into the one car, seeing us, and not getting in that car and  
16 trying to make it to a second car. Went to Mr. Jefferson.  
17 Tried to approach Mr. Jefferson. He wouldn't let us approac  
18 him by trying to get to the vehicle. If he had have fled t  
19 other direction or -- you know, it may have been different.  
20 he tried to make it to the vehicle, which based on officer  
21 safety and, you know, the history of Mr. Jefferson's -- the  
22 history I knew of Mr. Jefferson, we made contact with him.

Q. Is it your testimony of the 30 times that surveillance  
place you never saw Mr. Jefferson?

A. Not at that business.

S.H

1 Q. You never pulled your vehicle behind the vehicle  
2 Ms. Jefferson was standing at and prevented her from leaving?

3 A. No, ma'am.

4 Q. At any point in time, did Mr. Jefferson flee?

5 A. No, ma'am.

6 Q. You stated you did not -- none of the other officers had any  
7 weapons drawn; is that correct?

8 A. Yes, ma'am.

9 Q. And was Mr. Jefferson or any of the other individuals place  
10 in handcuffs prior to a frisk of their person?

11 A. No, ma'am.

12 Q. They were placed in handcuffs after they were patted down?

13 A. Yes, ma'am.

X14 Q. Did you find any weapons on their person?

X15 A. Not on their persons.

X16 Q. Did you find any weapons in any vehicle?

X17 A. Not any weapons.

18 Q. Then why did you place them in handcuffs at that point?

19 A. At the point when Mr. Jefferson was placed into handcuff  
20 was when he was making the statements over to Sergeant Price  
21 area that she had nothing to do with this. Based on that  
22 statement and his demeanor and attempting to get to the rear  
23 the vehicle, he was placed under handcuffs. While he was be  
24 placed under handcuffs is when Sergeant Price yelled over at  
25 to place him in handcuffs.

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1 A. I want to say it was probably about two or three years old.  
2 Maybe not that old. A young baby, because I found -- I  
3 photographed baby items I saw at the house, diapers, bottles.

4 THE COURT: Relevance, Counsel?

5 MS. REDMOND: It's beyond the scope of my question.

6 THE COURT: Move on.

7 MS. REDMOND: Thank you. Nothing further for this

8 witness.

9 THE COURT: Ms. Cooper?

10 MS. COOPER: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. COOPER:

13 Q. Agent Price, you had indicated in your testimony that you  
14 had been part of a previous surveillance of Mr. Jefferson; is  
15 that correct?

16 A. Yes, ma'am.

17 Q. On how many occasions did you surveil Mr. Jefferson?

18 A. The business or the residence?

19 Q. Him personally.

20 A. We had been by -- I hadn't actually seen Mr. Jefferson  
21 personally. We tried to make a drug buy one time, and he  
22 at the residence. And then we had been by the business se  
23 several times.

24 Q. So this incident at Head to Toe was the first time you  
25 your officers had actually made physical contact with him

*Sentencing*

1 wit, possession of cocaine with intent to distribute  
2 cocaine." And you're saying he wasn't indicted on the  
3 cocaine aspect of that?

4 MS. COPPER: Yes, sir, that's my  
5 understanding.

6 MS. REDMOND: If I may, Your Honor, I  
7 disagree fundamentally, I believe, with the position  
8 of the Defense. It is the Government's contention,  
9 Your Honor, and I believe that the record is clear,  
10 that there are drugs in the business in the form of  
11 trace elements found in baggies in the garbage can.  
12 There are drugs found outside of the business that had  
13 been driven up by the defendant. It is our  
14 contention, and I think the facts or the record is  
15 clear, that it is the belief of the Government that  
16 that business is being used or was being used at that  
17 time as a launching pad.

18 That is where the drug activity took place.  
19 The Court asked us, in fact, at the last time -- at  
20 the last sentencing hearing whether or not we had any  
21 evidence that the house was being used to sell drugs  
22 and we answered no. It is the business that is being  
23 used. The gun is used in furtherance of the drug  
24 trafficking crimes, specifically the drugs found in  
25 the car as well as in the business. The drugs are at

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